

1 **DEPARTMENT OF PUBLIC SERVICE REGULATION**
2 **BEFORE THE PUBLIC SERVICE COMMISSION**
3 **OF THE STATE OF MONTANA**

IN THE MATTER OF THE PETITION OF JAMES T. AND)	
ELIZABETH A. GRUBA; LEO G. AND JEANNE R. BARSANTI ON)	
BEHALF OF THEMSELVES & OTHERS SIMILARLY SITUATED,)	REGULATORY DIVISION
Complainants.)	
VS.)	
NORTHWESTERN ENERGY,)	DOCKET NO. D2010.2.14
Defendant.)	
)	

4 _____
5 **COMPLAINANTS' COMMENTS REGARDING NORTHWESTERN ENERGY'S OBJECTIONS TO**
6 **COMPLAINANTS' FIRST REQUEST FOR ADMISSIONS, INTERROGATORIES AND REQUEST FOR**
7 **PRODUCTION OF DOCUMENTS**

8 NorthWestern's sole objections to responding by February 27, 2014, to our Data
9 Requests is supported only by an incorrect assertion that such requests are proper under the
10 Commission's Procedural Order only between May 2, 2014 and May 23, 2014.

11 While Data Requests concerning NorthWestern's upcoming Response Testimony are
12 due during that time period, the Procedural Order also allows for other discovery. Paragraph 9
13 of that Order begins:

14 9. Data requests are the primary method of discovery in proceedings before the
15 Commission, but parties may employ techniques of prehearing discovery permitted in
16 state civil actions. Admin. R. Mont. 38.2.3301

17
18 Thus, the paragraph 6 limitations with regard to Data Requests were to further the
19 testimony and case schedule with regard to responding to pre-filed written testimony. They did

1 not preclude discovery provided for in paragraph 9 concerning other aspects of the case at
2 various other appropriate times, especially if that will narrow the issues.

3 The requests for admission are straight forward and ought to be admitted so, we do not
4 have to belabor testimony on those facts. The requests for data and interrogatories likewise
5 will aid in case preparation by clarifying everyone's understanding of NorthWestern's position.
6 For example, since it denied some of our allegations about its ownership charge, it ought to be
7 able to explain what its ownership charge applies to, and how it is derived and applied. It also
8 ought to be able to provide the 2013 Uniform System of Accounts for its Street Lighting
9 Customer Class to give us time to double check complicated figures therein.

10 NorthWestern's footnote 2(of its objections emailed to me on February 4, 2014 at 4 PM)
11 complains that Complainant's Data Requests had not been posted on the Commission's
12 website.¹ Discovery timely served on NorthWestern does not have to be so posted for
13 NorthWestern's response time begins running. That is governed by the rules in state civil
14 actions, which actually give NorthWestern more time to respond than the procedural order.

¹ The hardcopy of our Data Request was received by NorthWestern (addressed to Nedra Chase) in Butte on Tuesday, January 28, 2014 at 1:08 PM (FedEx tracking number 804791275564); and emailed to Ms. Norcott on January 27, 2010. The Commission received email copies on January 27, 2014 and the written copy was delivered to the PSC on January 29, 2014 via US Mail (USPS Tracking # 9114901159815449491803).

Everybody got the documents, so no harm, no foul. The reformatted Request for Admissions is posted at the PSC website with a posting date of January 30, 2014, the other reformatted Data Requests were posted at the PSC website on February 4, 2014.

Further, I completed efilings those data requests with the PSC on January 30, 2014 at 8:45 PM (Confirmation Numbers 19D719D73DE64 & 19D819D8364A2) – five days before NorthWestern's lament. I also re-uploaded reformatted versions of those documents at the PSC website to make responding easier even though the reformatting was not required. The upload of those reformatted documents was completed on February 4, 2014 at 1:36 PM (Confirmation Numbers: 19EC19EC3DE64 & 19ED19ED364A2). I want to thank Ms. George and the Commission staff for helping me iron out the document submission process.

Respectfully submitted:

February 6, 2014

By: Russell L. Doty

CERTIFICATE OF SERVICE

I certify that pursuant to ARM 38.2.313, 38.2.1209 and the Procedural Order dated January 16, 2014, on February 6, 2014, an accurate copy of the foregoing **Complainants' Response to NorthWestern's Objections to data requests in Docket No. D2010.2.14** were served upon the parties listed below in the manner provided:

<input checked="" type="checkbox"/> US Mail Original <input type="checkbox"/> Hand-deliver <input type="checkbox"/> Via Fax: <input checked="" type="checkbox"/> E-mail:	Kate Whitney, Montana Public Service Commission 1701 Prospect Av, PO Box 202601 Helena, MT 59620-2601 Email: kwhitney@mt.gov
<input type="checkbox"/> XX US Mail <input type="checkbox"/> Hand-delivery <input type="checkbox"/> Via Fax: <input checked="" type="checkbox"/> E-mail:	Laura Farkas, Montana Public Service Commission 1701 Prospect Av, PO Box 202601 Helena, MT 59620-2601 Email: lfarkas@mt.gov
<input type="checkbox"/> US Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-delivery <input type="checkbox"/> XX E-mail:	Robert A. Nelson, Montana Consumer Counsel 111 North Last Chance Gulch Suite 1B Box 201703 Helena MT 59620-1703 Email: robnelson@mt.gov
<input type="checkbox"/> US Mail <input type="checkbox"/> Hand-delivery <input type="checkbox"/> XX E-mail:	Sarah Norcott, Esq., Attorney for NorthWestern Energy 208 N Montana Ave., Suite 205 Helena, MT, 59601 Email: sarah.norcott@northwestern.com
<input type="checkbox"/> US Mail <input type="checkbox"/> Hand-delivery <input type="checkbox"/> XX E-mail:	Leo Barsanti 3316 Pipestone Dr. Billings, MT 59102 Email: leoj47@msn.com
<input type="checkbox"/> XX US Mail <input type="checkbox"/> Hand-delivery <input type="checkbox"/> XX E-mail:	Mary Wright, Montana Consumer Counsel 616 Helena Ave., Suite 300 PO Box 201703 Helena, MT 59620 Email: mwright@mt.gov
<input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-delivery <input type="checkbox"/> XX E-mail:	Nedra Chase NorthWestern Energy 40 E. Broadway Butte, MT 59701-9394 Email: Nedra.Chase@northwestern.com

Russell L. Doty